

01-0009
SEALED
CIV. KING

U.S. District Court
Northern District of Florida (Tallahassee)

CIVIL DOCKET FOR CASE #: 00-CV-104

MAGISTRATE JUDGE
O'SULLIVAN

Filed: 03/15/00

, et al v. , et al
Assigned to: Judge William Stafford
Demand: \$0,000
Lead Docket: None
Dkt# in other court: None

Nature of Suit: 890
Jurisdiction: US Plaintiff

Cause: 31:3729 False Claims Act

400CV104-P1
plaintiff

v.

400CV104-D1
defendant

01 JAN -3 AM 10:37
CLERK OF DIST. CT.
S.D. OF FLA - MIA

cat/div Archie
Case # 00cv 0009
Judge King Mag O'Sullivan
Mtr lfd Fee pd \$
Receipt #

No Transmittal of Record
Letter

CERTIFIED A TRUE COPY
ROBERT A. HOSCHING, CLERK

By Sarah Wells
Deputy Clerk

INTERNAL USE ONLY: Proceedings include all events.
 4:00cv104 , et al v. , et al

LC2
 SEALED

3/15/00 -- **Added party plaintiff UNITED STATES, defendant CERTAIN DEFENDANTS (sfl)

3/15/00 -- ** Set clerk flag. (sfl)

3/15/00 -- Setting 90 day no activity deadline pursuant to N.D.Fla.Loc.R.41.1 to 5/15/00 status check of involment by USA (sfl)

3/15/00 1 COMPLAINT Filing Fee: \$150.00 Receipt #: 97061 Number of Service Copies: 0 (sfl)

3/15/00 2 MOTION to file complaint under seal (sfl)

3/15/00 3 ORDER by Judge William Stafford granting [2-1] motion to file complaint under seal Copies sent as noted on document. (sfl)

3/20/00 -- Case sealed. (sfl)

5/18/00 4 MOTION by UNITED STATES to Extend Time to elect whether to intervene up to and including September 21, 2000 (sfl) [Entry date 05/19/00]

5/19/00 5 ORDER by Judge William Stafford granting [4-1] motion to Extend Time to elect whether to intervene up to and including September 21, 2000 Copies sent as noted on document. (sfl)

7/21/00 -- Deadline updated Setting deadline for - UNITED STATES status of whether to intervene by: 9/21/00 (sfl)

9/27/00 6 MOTION to Extend Time to elect whether to intervene until January 19, 2001 (sfl)

10/11/00 7 ORDER by Judge William Stafford granting [6-1] motion to Extend Time to elect whether to intervene until January 19, 2001 Copies sent as noted on document. (sfl)

11/30/00 8 MOTION by 400CV104-P1 to Transfer Case venue with case remaining under seal (sfl) [Entry date 12/01/00]

12/27/00 9 ORDER by Judge William Stafford granting [8-1] motion to Transfer Case venue with case remaining under seal Copies sent as noted on document. (sfl)

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

EDWARD TURNER ex rel.
UNITED STATES OF AMERICA

vs.

CASE NO. 4:00cv104/WS
UNDER SEAL

PUBLIC HEALTH TRUST OF
MIAMI-DADE COUNTY, FLORIDA
d/b/a JACKSON MEMORIAL HOSPITAL,

Defendant.

MOTION TO TRANSFER VENUE WITH CASE REMAINING UNDER SEAL

COMES NOW the United States of America and files its Motion to Transfer Venue with
Case Remaining Under Seal and states as follows:

The instant case involves allegations regarding double billings by Jackson Memorial Hospital in Dade County, Florida. In his disclosure statement, the Relator mentioned that other hospitals, including Sacred Heart Hospital in Pensacola, Florida, might be engaged in the same practice. Earlier in the case, the United States requested and was granted an extension of time to investigate Relator's allegations concerning Sacred Heart Hospital. During the extension period, the United States obtained the records necessary to determine whether Sacred Heart Hospital had engaged in such billing practices.

OFFICE CLERK
U.S. DISTRICT CT.
NORTHERN DIST. FLA.
TALLAHASSEE, FLA.

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FILED

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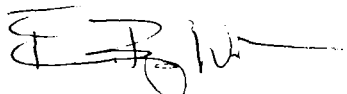
Based upon a review of the records, it does not appear that Sacred Heart Hospital engaged in the practices alleged by the Relator. Because the remaining allegations of Relator do not deal with the billings of any hospitals in the Northern District of Florida, venue would be more appropriate in the Southern District of Florida, where Jackson Memorial Hospital is located.

The United States Attorney's Office for the Southern District of Florida would be responsible for coordinating the investigation if the case is transferred. Because no investigation has yet been made into Relators allegations concerning Jackson Memorial Hospital, it is requested that the case remain under seal and the time for electing to intervene be extended for at least 120 days following formal transfer of the case to the United States District Court for the Southern District of Florida.

WHEREFORE the United States requests that this Court enter an Order transferring the case to the United States District Court for the Southern District of Florida and extending the time to elect to intervene to 120 days following the date of the transfer.

Respectfully submitted,

P. MICHAEL PATTERSON
United States Attorney



E. BRYAN WILSON
Assistant U.S. Attorney
Northern District of Florida
Fla. Bar No. 604501
111 N. Adams St., Fourth Floor
Tallahassee, FL 32301-1841
(850) 942-8430

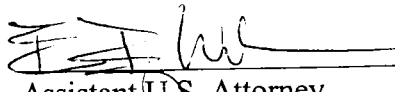
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail this

30 day of November, 2000, to WILLIAM J. BLECHMAN, ESQ., KENNY,

NACHWALTER, SEYMOUR, ARNOLD, CRITCHLOW & SPECTOR, P.A., 201 South

Biscayne Blvd., Suite 1100, Miami, FL 33131-4327.


Assistant U.S. Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

EDWARD TURNER,

VS

CASE NO. 4:00-CV104WS

PUBLIC HEALTH TRUST OF MIAMI-
DADE COUNTY,

Under Seal

REFERRAL AND ORDER

Referred to Senior Judge William Stafford on September 27, 2000

Motion/Pleadings: MOTION FOR EXTENSION OF TIME TO ELECT WHETHER TO INTERVENE

Filed by US ATTORNEY on 9/25/00 Doc.# 6

RESPONSES:

_____ on _____ Doc.# _____

_____ on _____ Doc.# _____

_____ Stipulated _____ Joint Pldg

_____ Unopposed _____ Consented

ROBERT A. MOSSING, CLERK

2
LC (1 OR 2)

Deputy Clerk: Sarah F. Walls

ORDER OF COURT

It is ORDERED this 10th day of October, 2000,
the requested relief is Granted in part. Motion
for extension of time is granted
to November 30, 2000 only.

William Stafford
WILLIAM STAFFORD
SENIOR UNITED STATES DISTRICT JUDGE

Entered On Docket: 10-11-00 By: SW
Rules 58 & 79(a) FRCP or 42(d)(1) & 55 FRCP
Copies mailed to: Bleiman Blondan

OFFICE OF CLERK
U.S. DISTRICT CT.
NORTH DIST., FLA.
TALLAHASSEE, FLA.

00 OCT 10 PM 4:54
FILED

Document No.

7

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

EDWARD TURNER ex rel.
UNITED STATES OF AMERICA

vs.

CASE NO. 4:00cv104/WS
UNDER SEAL

PUBLIC HEALTH TRUST OF
MIAMI-DADE COUNTY, FLORIDA
d/b/a JACKSON MEMORIAL HOSPITAL,

Defendant.

MOTION FOR EXTENSION OF TIME TO ELECT WHETHER TO INTERVENE

COMES NOW the United States of America and files its Motion for an Extension of
Time to Elect Whether to Intervene and states as follows:

The United States has obtained many of the records which it deems necessary to
determine whether hospitals in this district have engaged in billing practices similar to those
alleged by the Relator concerning Jackson Memorial Hospital in Dade County, Florida. Due to
unforeseen delays, these documents have only been obtained within the last several days. It is
estimated that this office will need additional time to review the documents. In addition,
investigators from the Medicaid Fraud Control Unit have begun reviewing their data to
determine whether any hospitals in this district are engaged in practices similar to those alleged
against Jackson Memorial Hospital.

U.S. DISTRICT COURT
NORTHERN DISTRICT OF FLA.
TALLAHASSEE, FLA.

00 SEP 25 PM 4:28

KMK

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It is believed that this review can be accomplished within the next 120 days.

WHEREFORE the United States requests that it be allowed an additional 120 days, up to and including January 19, 2001, to elect whether to intervene.

Respectfully submitted,


P. MICHAEL PATTERSON
United States Attorney



✓ E. BRYAN WILSON
Assistant U.S. Attorney
Northern District of Florida
Fla. Bar No. 604501
111 N. Adams St., Fourth Floor
Tallahassee, FL 32301-1841
(850) 942-8430

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail this 25th day of September, 2000, to WILLIAM J. BLECHMAN, ESQ., KENNY, NACHWALTER, SEYMOUR, ARNOLD, CRITCHLOW & SPECTOR, P.A., 201 South Biscayne Blvd., Suite 1100, Miami, FL 33131-4327.



Assistant U.S. Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

Sealed order
(WS) 5/19/2000

EDWARD TURNER,

VS

CASE NO. 4:00CV104WS

PUBLIC HEALTH TRUST OF MIAMI-
DADE COUNTY,

REFERRAL AND ORDER

Referred to Senior Judge William Stafford on May 19, 2000

Motion/Pleadings: MOTION FOR EXTENSION OF TIME TO ELECT WHETHER TO INTERVENE

Filed by UNITED STATES on 5/18/00 Doc.# 4

RESPONSES:

_____ on _____ Doc.# _____

_____ on _____ Doc.# _____

_____ Stipulated _____ Joint Pldg

_____ Unopposed _____ Consented

ROBERT A. MOSSING, CLERK

2
LC (1 OR 2)

Deputy Clerk: Sarah F. Walls

ORDER OF COURT

It is ORDERED this 19th day of May, 2000,
the requested relief is granted.

William Stafford
WILLIAM STAFFORD
SENIOR UNITED STATES DISTRICT JUDGE

Entered On Docket: 5-19-00 By: SW
Rules 58 & 79(a) FRCP or 32(d)(1) & 55 FRCP
Copies mailed to: Wilson, Beckman

OFFICE OF CLERK
U.S. DISTRICT CT.
NORTH DIST., FLA.
TALLAHASSEE, FLA.

00 MAY 19 PM 2:43

FILED

SW

Document No.

5

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

EDWARD TURNER ex rel.
UNITED STATES OF AMERICA

vs.

CASE NO. 4:00cv104/WS
UNDER SEAL

PUBLIC HEALTH TRUST OF
MIAMI-DADE COUNTY, FLORIDA
d/b/a JACKSON MEMORIAL HOSPITAL,

Defendant.

MOTION FOR EXTENSION OF TIME TO ELECT WHETHER TO INTERVENE

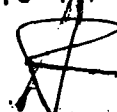
COMES NOW the United States of America and files its Motion for an Extension of
Time to Elect Whether to Intervene and states as follows:

The Relator filed the instant action in late March, 2000. Relator alleges that Jackson Memorial Hospital in Dade County, Florida, engaged in a scheme to defraud Medicaid by both double billing and over billing for outpatient services provided at the hospital and its clinics. Relator's allegations primarily deal with Jackson Memorial Hospital. However, Relator alleges that it is possible that other hospitals across the State of Florida have engaged in similar activities. Included in these hospitals is Sacred Heart Hospital in Pensacola, Florida.

Currently, this office is investigating whether or not Sacred Heart Hospital engaged in the billing practices alleged by the Relator. If, after a preliminary review, it appears that additional

OFFICE OF CLERK
U.S. DISTRICT CT.
NORTHERN DIST. FLA.
TALLAHASSEE, FLA.

00 MAY 18 PM 4: 26



- 4 -

investigation into the activities of Sacred Heart is warranted, this office will move forward with an investigation against Sacred Heart Hospital, Jackson Memorial Hospital and any other hospitals who may be engaged in the practices described in Relator's Complaint.

If, however, the preliminary investigation does not reveal that Sacred Heart Hospital engaged in similar billing practices, this office will request that the Complaint be transferred to the United States District Court for the Southern District of Florida.

It is anticipated that the preliminary investigation can be complete in 120 days. This office has already requested the appropriate billing records from the Medicaid Fiscal Intermediary and anticipates receiving those documents within the next 60 days. Once the preliminary investigation has been made, this office will be in a position to determine whether or not the case should be transferred to the United States District Court for the Southern District of Florida.

WHEREFORE the United States requests that this Court enter an order extending the time for it to elect whether to intervene in the above case for 120 days, up to and including September 21, 2000.

Respectfully submitted,

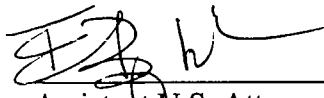
P. MICHAEL PATTERSON
United States Attorney

A handwritten signature in black ink, appearing to read 'E. B. Wilson', with a horizontal line extending to the right.

E. BRYAN WILSON
Assistant U.S. Attorney
Northern District of Florida
Fla. Bar No. 604501
111 N. Adams St., Fourth Floor
Tallahassee, FL 32301-1841
(850) 942-8430

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail this 18th day of May, 2000, to WILLIAM J. BLECHMAN, ESQ., KENNY, NACHWALTER, SEYMOUR, ARNOLD, CRITCHLOW & SPECTOR, P.A., 201 South Biscayne Blvd., Suite 1100, Miami, FL 33131-4327.



Assistant U.S. Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

TALLAHASSEE DIVISION

UNITED STATES
E.T.,

Case No.: 4:00cv104-WS

VS.

CERTAIN
COMPLAINT

D.

RELATOR'S MOTION

COMPLAINT UNDER SEAL

31/03/2001

The undersigned, the undersigned of Relator E.T. to file the Complaint
under seal (b)(2) under consideration of the Relator's motion

and the

On the Relator's motion to file the Complaint under seal

be and the Clerk is directed to file the Complaint in this

action until further Order of this Court.

D. Florida, this 15th day of March,

2000.

William Stafford
UNITED STATES DISTRICT JUDGE

OFFICE OF CLERK
U.S. DISTRICT CT.
NORTH DIST., FLA.
TALLAHASSEE, FLA.

Copies Forwarded to:
Janet Rene
P. Michael
William J. Blomquist
/101098

00 MAR 15 PM 2:41

FILED

see

ENTERED ON DOCKET 3/15/01
Pages 68 & 79 (b)(2) (b)(7)(C) (b)(7)(D) (b)(7)(E) (b)(7)(F) (b)(7)(G) (b)(7)(H) (b)(7)(I) (b)(7)(J) (b)(7)(K) (b)(7)(L) (b)(7)(M) (b)(7)(N) (b)(7)(O) (b)(7)(P) (b)(7)(Q) (b)(7)(R) (b)(7)(S) (b)(7)(T) (b)(7)(U) (b)(7)(V) (b)(7)(W) (b)(7)(X) (b)(7)(Y) (b)(7)(Z)

Copies mailed to: *Beckman*

3-

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

Tallahassee Division

UNITED STATES OF AMERICA *ex rel.*
E.T.,

Case No.:

4:00 cv 104-WS

Plaintiff,

vs.

CERTAIN DEFENDANTS NAMED IN
THE COMPLAINT,

Defendants.

RECEIVED
U.S. DISTRICT COURT
TALLAHASSEE, FL
JAN 15 AM 9:35

9

**RELATOR'S MOTION TO FILE THE COMPLAINT
UNDER SEAL AS REQUIRED BY 31 U.S.C. § 3730(b)(2)**

Plaintiff/Relator E.T., pursuant to the provisions of Section 3730(b)(2) of the False Claims Act, 31 U.S.C. § 3729, *et seq.*, requests the entry of an Order directing the Clerk to file the Complaint in this action under seal.

MEMORANDUM

The Complaint in this case is filed under the False Claims Act, 31 U.S.C. § 3729, *et seq.* ("the Act"), which allows a private citizen having knowledge of a false or fraudulent claim against the Government to bring an action for himself (the "Relator") and for the Government.¹ Section 3730(b)(2) of the Act expressly requires that the Complaint be filed under seal and gives the United States sixty (60) days, or such other time as the Court permits, to investigate the allegations and decide whether to intervene in the action.²

¹ Actions under the False Claims Act are called "*qui tam*" actions, which is a shortened version of a latin phrase meaning "who brings the action for the king as well as himself." *Erickson v. American Institute of Bio. Sciences*, 716 F. Supp. 908, n. 1 (E.D. Va. 1989).

² 31 U.S.C. § 3730(b)(2) requires:

(b) **Actions by private persons.**--- (2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to

3

**Motion to File The Complaint Under Seal
as Required by 31 U.S.C. § 3730(b)(2)**

Page 2

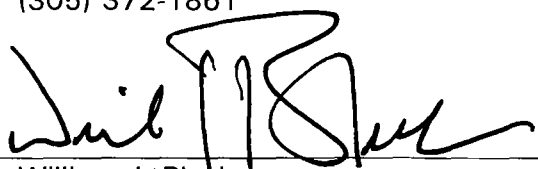
The statutory requirement in the Act that the Complaint be filed under seal is intended, among other reasons, to protect the integrity of the Government's investigation of the allegations in the pleading and to prevent wrongdoers from being tipped off that they are under investigation. *See Erickson v. American Institute of Bio. Sciences*, 716 F. Supp. 908, 912 (E.D. Va. 1989).

Based on the foregoing analysis, and as required by 31 U.S.C. § 3730(b)(2), the Relator requests that the Court enter an Order directing the Clerk to file and maintain the Complaint in this action under seal until further Order of the Court. For the Court's convenience, a proposed Order is attached to this motion as Exhibit 1.

Respectfully submitted,

KENNY NACHWALTER SEYMOUR
ARNOLD CRITCHLOW & SPECTOR, P.A.
William J. Blechman, Esq.
David H. Lichter, Esq.
201 South Biscayne Boulevard
Suite 1100
Miami, Florida 33131-4327
Tel: (305) 373-1000
Fax: (305) 372-1861

Dated: March 13, 2000
Miami, Florida

By: 
William J. Blechman
Florida Bar No. 379281

Attorneys for Relator

Rule (4)(d)(4) of the Federal Rules of Civil Procedure. **The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders.** The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information. (**Emphasis added.**)

**Motion to File The Complaint Under Seal
as Required by 31 U.S.C. § 3730(b)(2)**

Page 3

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served on 3-14, 2000,
by Certified Mail, Return Receipt Requested upon the following:

The Honorable Janet Reno
Attorney General of
the United States
United States Department
of Justice
Tenth and Constitution Avenue, N.W.
Room 4400
Washington, D.C. 20530

The Honorable P. Michael Patterson
United States Attorney
Northern District of Florida
Fourth Floor
111 North Adams Street
Tallahassee, Florida 32301


William J. Blehman

/101097

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

TALLAHASSEE DIVISION

UNITED STATES OF AMERICA *ex rel.*
E.T.,

Case No.:

Plaintiff,

vs.

CERTAIN DEFENDANTS NAMED IN THE
COMPLAINT,

Defendant.

**ORDER GRANTING RELATOR'S MOTION
TO FILE THE COMPLAINT UNDER SEAL
AS REQUIRED BY 31 U.S.C. § 3730(b)(2)**

THIS CAUSE is before the Court on the motion of Relator E.T. to file the Complaint under seal as required by 31 U.S.C. § 3730(b)(2). Upon consideration of the Relator's motion and the entire record in this action, it is

ORDERED and ADJUDGED that the Relator's motion to file the Complaint under seal be and the same is **GRANTED**. Accordingly, the Clerk is directed to file the Complaint in this action under seal, and the Complaint shall remain under seal until further Order of this Court.

DONE AND ORDERED at _____, Florida, this _____ day of _____,
2000.

UNITED STATES DISTRICT JUDGE

Copies Furnished To:
Janet Reno, Esq.
P. Michael Patterson, Esq.
William J. Blechman, Esq.
/101098

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA**

Case No.

United States of America *ex rel.* E.T.,

Plaintiff,

vs.

Public Health Trust of Miami-Dade County,
Florida d/b/a Jackson Memorial Hospital;
Jackson Memorial Hospital d/b/a South Miami
Health Care Center; Jackson Memorial Hospital
d/b/a Liberty City Health Care Center; Jackson
Memorial Hospital d/b/a Downtown Family
Medical Center; Jackson Memorial Hospital d/b/a
North Dade Health Care Center; Jackson
Memorial Hospital d/b/a North Miami Health
Care Center; Jackson Memorial Hospital d/b/a
Park Plaza West-UMDC Division; Jackson
Memorial Hospital d/b/a Park Plaza West-
PHT/JMH Community Health Center; Jackson
Memorial Hospital d/b/a Park Plaza West-UMDC
Department of OB/GYN; Jackson Memorial
Hospital d/b/a Park Plaza West--UMDC Pediatric
Comprehensive Care Center; Jackson Memorial
Hospital d/b/a Juanita Mann Health Center;
Jackson Memorial Hospital d/b/a Jefferson
Reaves Senior Health Center; Jackson Memorial
Hospital d/b/a Anne Bates Leach-UMDC Dept. of
Ophthalmology,

Defendants.

**COMPLAINT
FILED UNDER SEAL**

The United States of America *ex rel.* E.T. sues Defendants Public Health Trust of
Miami-Dade County, Florida d/b/a Jackson Memorial Hospital; Jackson Memorial Hospital

d/b/a South Miami Health Care Center; Jackson Memorial Hospital d/b/a Liberty City Health Care Center; Jackson Memorial Hospital d/b/a Downtown Family Medical Center; Jackson Memorial Hospital d/b/a North Dade Health Care Center; Jackson Memorial Hospital d/b/a North Miami Health Care Center; Jackson Memorial Hospital d/b/a Park Plaza West-UMDC Division; Jackson Memorial Hospital d/b/a Park Plaza West-PHT/JMH Community Health Center; Jackson Memorial Hospital d/b/a Park Plaza West-UMDC Department of OB/GYN; Jackson Memorial Hospital d/b/a Park Plaza West--UMDC Pediatric Comprehensive Care Center; Jackson Memorial Hospital d/b/a Juanita Mann Health Center; Jackson Memorial Hospital d/b/a Jefferson Reaves Senior Health Center; Jackson Memorial Hospital d/b/a Anne Bates Leach-UMDC Dept. of Ophthalmology and alleges as follows:

1. This is a relator action for damages and civil penalties on behalf of the United States of America under the False Claims Act (the "Act"), 31 U.S.C. § 3729 et seq., as amended, arising out of false or fraudulent claims presented by Defendants under the Federal Medicare Program.

The False Claims Act

2. The False Claims Act (the "Act"), originally enacted in 1863 during the United States Civil War, was substantially amended by the False Claims Amendments Act of 1986. Congress enacted these new amendments to enhance the Government's ability to recover losses sustained as a result of fraud against the United States. Congress acted

after finding that fraud in federal programs and procurement is pervasive and that the False Claims Act, which Congress characterized as the primary tool for combating fraud in government contracting, was in need of modernization. Congress intended these amendments to create incentives for individuals who are aware of fraud against the Government to disclose such information without fear of reprisals or government inaction.

3. The Act provides that any person who knowingly submits or causes to be submitted a false or fraudulent claim to the Government for payment or approval is liable for a civil penalty of up to \$10,000 for each such claim, plus three times the amount of the damages sustained by the Government. The Act allows any person having knowledge of a false or fraudulent claim against the Government to bring an action for himself and for the Government and to share in any recovery. This person is referred to as the Relator. The Complaint is to be filed under seal for 60 days (without service on the Defendants during that 60-day period) to enable the Government to conduct its own investigation without the Defendants' knowledge, and to determine whether to join the action.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345. Under 31 U.S.C. § 3730(b)(1), a person may bring a civil action for a violation of Section 3729 of the Act for the United States Government. Further, 31 U.S.C. § 3732 specifically confers jurisdiction on this Court for actions brought pursuant to Sections 3729 and 3730 of the Act.

5. This Court has personal jurisdiction over the Defendants because they committed the unlawful acts described in this Complaint in the State of Florida.

6. Venue of this action is proper in this Court pursuant to 31 U.S.C. § 3732(a) because at least some of the acts proscribed by 31 U.S. C. § 3729 as alleged below occurred in the Northern District of Florida and elsewhere in the State of Florida.

7. In accordance with 31 U.S.C. § 3730(b)(2), and prior to the filing of this Complaint, the Relators have served a copy of this Complaint and written disclosure of substantially all material evidence and information they possess on the Attorney General of the United States and the United States Attorney for the Northern District of Florida pursuant to Rule 4(i) of the Federal Rules of Civil Procedure. The Relators' written disclosure statement evidences and supports the existence of the overcharges and false claims for payment by Defendants as alleged in this Complaint.

The Parties

8. Plaintiff/Relator Edward Turner is a resident of the State of Florida and resides in Tallahassee, Florida.

9. The Relator is the original source of the information disclosed in this Complaint as defined by 31 U.S.C. § 3730(e)(4)(B), and is otherwise a proper party to bring this action under the False Claims Act.

10. Defendant Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Memorial Hospital ("JMH") is an agency of Miami-Dade County, Florida operating the County's public hospital system.

11. Defendant Jackson Memorial Hospital d/b/a South Miami Health Care Center is an outpatient clinic that is owned and operated by JMH.

12. Defendant Jackson Memorial Hospital d/b/a Liberty City Health Care Center is an outpatient clinic that is owned and operated by JMH.

13. Defendant Jackson Memorial Hospital d/b/a Downtown Family Medical Center is an outpatient clinic that is owned and operated by JMH.

14. Defendant Jackson Memorial Hospital d/b/a North Dade Health Care Center is an outpatient clinic that is owned and operated by JMH.

15. Defendant Jackson Memorial Hospital d/b/a North Miami Health Care Center is an outpatient clinic that is owned and operated by JMH.

16. Defendant Jackson Memorial Hospital d/b/a Park Plaza West-UMDC Division is an outpatient clinic that is owned and operated by JMH.

17. Defendant Jackson Memorial Hospital d/b/a Park Plaza West-PHT/JMH Community Health Center is an outpatient clinic that is owned and operated by JMH.

18. Defendant Jackson Memorial Hospital d/b/a Park Plaza West-UMDC Department of OB/GYN is an outpatient clinic that is owned and operated by JMH.

19. Defendant Jackson Memorial Hospital d/b/a Park Plaza West--UMDC Pediatric Comprehensive Care Center is an outpatient clinic that is owned and operated by JMH.

20. Defendant Jackson Memorial Hospital d/b/a Juanita Mann Health Center is an outpatient clinic that is owned and operated by JMH.

21. Defendant Jackson Memorial Hospital d/b/a Jefferson Reaves Senior Health Center is an outpatient clinic that is owned and operated by JMH.

22. Defendant Jackson Memorial Hospital d/b/a Anne Bates Leach-UMDC Dept. of Ophthalmology is an outpatient clinic that is owned and operated by JMH.

23. The entities identified in paragraphs 11 through 22 above are collectively referred to as JMH's "outpatient clinics." The reference in this Complaint to "Defendants" refers to the Defendants identified in paragraphs 10 through 22 above.

The Medicaid Program

24. Medicaid is a cooperative federal-state program through which the Federal Government provides financial assistance to States so that they may furnish medical care to needy individuals. See 42 U.S.C. § 1396. Although participation in Medicaid is voluntary, participating States must comply with certain requirements imposed by the Medicaid Act, 79 Stat. 343, as amended, 42 U.S.C. § 1396 *et seq.*, and regulations imposed by the Secretary of Health and Human Services (the "Secretary"). To qualify for federal assistance, a State must submit to the Secretary and have approved a "plan for

medical assistance," *id.* § 1396(a), that contains a comprehensive statement describing the nature and scope of the State's Medicaid program. See 42 U.S.C. § 430.10 (1989). The State plan is required to establish, among other things, a scheme for reimbursing health care providers for the medical services provided to needy individuals, known as Medicaid recipients.

25. The State of Florida elected to participate in the Medicaid program as reflected in Florida Statutes Chapter 409. In accordance with federal law, the Secretary approved Florida's Medicaid plan, including its reimbursement scheme. Under the State's Medicaid plan, the Agency for Health Care Administration ("AHCA") develops and carries out policies related to the Medicaid program. AHCA's offices are located in Tallahassee, Florida. AHCA contracts with a fiscal agent that processes Medicaid claims and enrolls non-institutional providers. Consultec Health Services, Inc. is the fiscal intermediary for the Florida Medicaid Program.

26. Under Florida Statutes Section 409.907, AHCA makes payments for medical assistance and related services rendered to Medicaid recipients only to an entity that has a provider agreement in effect. The provider agreement requires the provider to comply with all state and federal laws pertaining to the Medicaid program, § 409.907(2), (3), and is terminable upon reasonable notice. § 409.907(3). The provider agreement also requires the provider to maintain records relevant to its services and billing for a five (5) year period, § 409.907(3)(a), and it gives the State and Federal Government the right to access to

those records, including computer files. § 409.907(3)(e). Section 409.907.3)(f) expressly obligates a Medicaid provider to “[p]romptly report any moneys received in error or in excess of the amount to which the provider is entitled from the Medicaid program, and promptly refund such moneys to the [State].” The State may deny enrollment in the Medicaid program to a provider that has violated federal or state laws, rules or regulations governing Florida’s Medicaid program. § 409.907(10)(i).

27. Florida Statute Section 409.908 governs the State’s reimbursement of Medicaid providers. The statute provides, in substance, that the State shall reimburse Medicaid providers in accordance with methodologies and fee schedules set forth in the rules promulgated by AHCA.

28. This case concerns Medicaid reimbursement for medical services rendered at outpatient clinics. Outpatient services are those services rendered in a hospital or outside clinic for a specific procedure or treatment that is expected to keep the recipient in the hospital less than 24 hours. A recipient is considered an outpatient if the stay is less than 24 hours, regardless of whether a bed is used or the recipient remains in the hospital past midnight. Outpatient services are preventative, diagnostic, therapeutic, rehabilitative or palliative services that are furnished by a physician or dentist. See AHCA’s *Hospital Coverage and Limitations Handbook*, Chapter 1, at 1-2 (January 1997).

29. AHCA has set forth a number of service requirements for Medicaid reimbursement to outpatient clinics. Those requirements are as follows:

1. The services must be medically necessary;
2. The services must be individualized, specific, consistent with symptoms or confirmed diagnosis of the illness or injury under the treatment, and not in excess of the patient's needs;
3. The services must not be experiments;
4. The services must be reflective of the level of services that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide;
5. The services must be furnished in a manner not primarily intended for the convenience of the recipient, and the recipient's caretaker, or the provider; and
6. **THE SERVICES MUST NOT DUPLICATE ANOTHER PROVIDER'S SERVICE.**

See AHCA's *Hospital Coverage and Limitations Handbook*, Chapter 2 ("Hospital Services Covered Services Limitations, and Exclusions") at 2-1 to 2-2 (January 1997) (emphasis added).

30. Medicaid pays a line item rate and/or a technical fee for outpatient hospital services. A line rate applies one time to each covered outpatient revenue center code billed, regardless of the charges. See *Hospital Coverage and Limitations Handbook*, Chapter 2, at 2-2.

The False Claims Act Violations

31. Beginning at least as early as 1996, the precise date being unknown, and continuing to the present, Defendants knowingly and intentionally defrauded the United States Government by double billing Medicaid for covered services provided to recipients. The double billing occurred because JMH and the outpatient clinics were each using their respective Medicaid provider numbers for those outpatient clinics to bill Medicaid for the same services rendered at the same time to the same recipients at the outpatient clinics.

32. Additionally, beginning at least as early as 1996, the precise date being unknown, and continuing to the present, JMH knowingly and intentionally defrauded the United States Government by overcharging Medicaid by using the more expensive "encounter" rate rather than the less expensive "physician fee for office visit" rate to bill for medical services provided to recipients at JMH's outpatient clinics.

33. As part of this unlawful scheme, Defendants have provided false or fraudulent billing statements and information to AHCA in Tallahassee, Florida. Further, as noted above, AHCA makes payments to Medicaid providers for medical and related services rendered to Medicaid recipients.

34. Defendants have not only allowed these fraudulent practices to continue, but they have conspired to keep these acts secret. Further, Defendants failed to report any or all of these fraudulent acts to the proper authorities.

COUNT I

**Violation of 31 U.S.C. § 3729(a)(1)
(Presenting a False Claim for Payment or Approval to the Government)**

35. Plaintiff incorporates by reference the allegations in paragraphs 1 through 34 above.

36. As described in more detail above, Defendants violated Section 3729(a)(1) of Title 31 of the United States Code by knowingly presenting or causing to be presented to an officer or employee of the United States Government false or fraudulent claims or statements for payment or approval.

37. Defendants engaged in the foregoing conduct with actual knowledge that the claims or statements were unlawful; or Defendants acted in deliberate ignorance of the truth or falsity of the claims or statements that they submitted to the Government; or Defendants acted in reckless disregard of the truth or falsity of the information in the statements or claims to the Government.

38. The United States, unaware of the falsity of the records, statements or claims made by Defendants, and in reasonable reliance on the accuracy of Defendants' records, statements or claims, overpaid the Defendants and may continue to overpay the Defendants for services rendered to Medicaid recipients at the outpatient clinics.

39. As a direct and proximate result of Defendants' conduct, the United States has sustained injury and damage.

COUNT II

**Violation Of 31 U.S.C. § 3729(a)(2)
(False Record Made or Used to Get a False Claim Paid or Approved)**

40. Plaintiffs incorporate by reference the allegations in paragraphs 1 through 34 above.

41. As described in more detail above, Defendants violated Section 3729(a)(2) of Title 31 of the United States Code by knowingly making, using or causing to be made or used, false records or statements to present to the United States to get false or fraudulent claims paid or approved by the Government.

42. Defendants engaged in the foregoing conduct with actual knowledge that the claims or statements were unlawful; or Defendants acted in deliberate ignorance of the truth or falsity of the claims or statements that they submitted to the Government; or Defendants acted in reckless disregard of the truth or falsity of the information in the statements or claims to the Government.

43. The United States, unaware of the falsity of the records, statements or claims made by Defendants, and in reasonable reliance on the accuracy of Defendants' records, statements or claims, overpaid the Defendants and may continue to overpay the Defendants for services rendered to Medicaid recipients at the outpatient clinics.

44. As a direct and proximate result of Defendants' conduct, the United States has sustained injury and damage.

COUNT III

**Violation Of 31 U.S.C. § 3729(a)(3)
(Conspiracy)**

45. Plaintiffs incorporate by reference the allegations in paragraphs 1 through 34 above.

46. As described in more detail above, JMH and the outpatient clinics violated Section 3729(a)(3) of Title 31 of the United States Code by conspiring and agreeing to knowingly submit to the Government false or fraudulent claims for payment or approval, and, in furtherance of that agreement, knowingly submitted false or fraudulent claims to the Government for payment or approval.

47. Defendants carried out these unlawful schemes with the intent to defraud the Government.

48. Defendants engaged in the foregoing conduct with actual knowledge that the claims or statements were unlawful; or Defendants acted in deliberate ignorance of the truth or falsity of the claims or statements that they submitted to the Government; or Defendants acted in reckless disregard of the truth or falsity of the information in the statements or claims to the Government.

49. The United States, unaware of the falsity of the records, statements or claims made by Defendants, and in reasonable reliance on the accuracy of Defendants' records, statements or claims, overpaid the Defendants and may continue to overpay the Defendants for services rendered to Medicaid recipients at the outpatient clinics.

50. As a direct and proximate result of Defendants' conduct, the United States has sustained injury and damage.

Prayer For Relief

WHEREFORE, Relator, on behalf of himself and the United States, requests the following relief:

A. The entry of a Final Order requiring Defendants, jointly and severally, to cease and desist from violating 31 U.S.C. § 3729;

B. The entry of a Final Judgment in Plaintiffs' favor and against Defendants, jointly and severally, in an amount equal to three (3) times the amount of damages sustained by the United States because of Defendants' actions, plus a civil penalty of not less than \$5,000 and not more than \$10,000 for each violation of 31 U.S.C. § 3729;

C. The entry of a Final Order awarding the Relator the maximum amount allowed pursuant to 31 U.S.C. § 3730(d);

D. The entry of a Final Order requiring Defendants, jointly and severally, to pay the Relator the expenses that he necessarily incurred in accordance with 31 U.S.C. § 3730(d)(1);

E. The entry of a Final Order requiring Defendants, jointly and severally, to pay the Relator's attorney's fees and costs in accordance with 31 U.S.C. § 3730(d)(1);

F. Interest as allowable by law; and

G. Such other and further relief as the Court considers just and proper.

Dated: March 14, 2000
Miami, Florida

Respectfully submitted,

KENNY NACHWALTER SEYMOUR
ARNOLD CRITCHLOW & SPECTOR, P.A.
1100 Miami Center
201 South Biscayne Boulevard
Miami, Florida 33131
Telephone: 305-373-1000
Facsimile: 305-372-1861

By: 

William J. Blechman
Fla. Bar No. 379281
David H. Lichter
Fla. Bar No. 359122

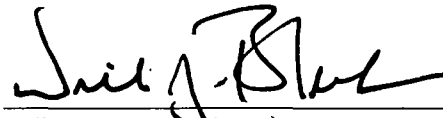
Counsel for Relator

CERTIFICATE OF SERVICE

I certify a copy of this Complaint was served on March 14, 2000, by
Certified Mail, Return Receipt Requested upon:

The Honorable Janet Reno
Attorney General of the United States
United States Department of Justice
Tenth and Constitution Avenue, N.W.
Room 4400
Washington, DC 20530

P. Michael Patterson, Esq.
United States Attorney
Northern District of Florida
Fourth Floor
111 North Adams Street
Tallahassee, Florida 32301



William J. Blechman

119308.1

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

UNITED STATES OF AMERICA ex rel.
E.T.,

DEFENDANTS

CERTAIN DEFENDANTS NAMED IN
THE COMPLAINT

4:00CV104-WS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Dade
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Kenny Nachwalter Seymour Arnold Critchlow &
Spector, 201 S. Biscayne Blvd., Suite 1100
Miami, FL 33131 Tel. (305) 373-1000

ATTORNEYS (IF KNOWN)

(d) CIRCLE COUNTY WHERE ACTION AROSE:

DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION

(PLACE AN X ONE BOX ONLY)

- ☒ 1. U.S. Government Plaintiff
☐ 2. U.S. Government Defendant
☐ 3. Federal Question (U.S. Government Not a Party)
☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Case Only)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

- PTF DEF
☐ 1 ☐ 1
☐ 2 ☐ 2
☐ 3 ☐ 3
Foreign Nation ☐ 6 ☐ 6

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Incorporated or Principal Place of Business in This State
Incorporated and Principal Place of Business in Another State
Foreign Nation

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

31 U.S.C. Section 3729 et seq.

IVa. Unknown days estimated (for both sides) to try entire case

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

A CONTACT	A TORTS	B FORFEITURE PENALTY	A BANKRUPTCY	A OTHER STATUS
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) B <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits B <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL PROPERTY <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personnel Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending B <input type="checkbox"/> 380 Other Personnel Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other A LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Management Relations B <input type="checkbox"/> 730 Labor Management Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Ret. Inc. Security Act B	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark B SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) A FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 400 States Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. B <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12USC3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 990 Other Statutory Actions * * A or B Federal False Claims Act
A REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure B <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	A CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	B PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General * <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other * <input type="checkbox"/> 550 Civil Rights * A or B		

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1. Original Proceeding
☐ 2. Removed From State Court
☐ 3. Remanded from Appellate Court
☐ 4. Re filed
☐ 5. Transferred from another district (Specify)
☐ 6. Multidistrict Litigation
☐ 7. Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT

CHECK IF THIS IS A
☐ UNDER F.R.C.P. 23

CLASS ACTION**DEMAND \$**

Unspecified JURY DEMAND:

VIII. RELATED CASE(S) IF ANY

DATE

JUDGE

SIGNATURE OF ATTORNEY OF RECORD

William J. Blochman

DOCKET NUMBER

AM 9:45

FILED

March 14, 2000

UNITED STATES DISTRICT COURT

S/F 1-2

REV. 9/94

FOR OFFICE USE ONLY: Receipt No. _____

Date Paid: _____

Amount: _____

M/fp: _____